

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT WARD GARRISON,

Plaintiff,

v.

DOUG WADDINGTON, *et al.*,

Defendants.

Case No. C05-5487 RJB/KLS

ORDER DENYING PLAINTIFF'S
MOTION FOR HELP AND
GRANTING PLAINTIFF'S MOTION
TO ENLARGE TIME TO FILE
REPLY

This civil rights action has been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b)(1)(B) and Local MJR 3 and 4. Before the Court are Plaintiff's Motion for Help (Dkt. # 70) and Motion for Enlargement of Time (Dkt. # 76) to file a reply to Defendants' Response (Dkt. # 71). Having carefully reviewed the motion, response and reply, the Court finds that Plaintiff's motion for help shall be denied.

I. DISCUSSION

Plaintiff's civil rights action is against officials of the Stafford Creek Corrections Center (SCCC). Defendants filed a motion for summary judgment on July 21, 2006, shortly after Plaintiff was transferred to the Washington State Penitentiary (WSP) in Walla Walla, Washington.

1 Thereafter, Plaintiff has requested four extensions of time to respond to Defendants' motion for
2 summary judgment. Defendants have not opposed Plaintiff's requests and the Court has granted the
3 requests. The latest deadline was extended until June 29, 2007. (Dkt. # 74).

4 Plaintiff now moves the Court to order the WSP, who is not a party in this action, to provide
5 Plaintiff "with the necessary resources to conduct litigation in this court, to wit, access to federal
6 case law, unrestricted legal photocopying, 9 x 12 envelopes for service by U.S. mail, and the files
7 removed from his 'one' box of authorized legal materials." (Dkt. # 70 at 1). Plaintiff also requests
8 a transfer to another prison's IMU unit and/or appointment of counsel. (*Id.* at 4-5).

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11 **A. The Court Does Not Have Jurisdiction Over WSP Or Its Officials**

12 As Plaintiff is well aware, Plaintiff's civil rights complaint contains claims only against
13 officials and employees of the Stafford Creek Corrections Center in Aberdeen, Washington. DOC is
14 not a defendant in this case, nor are any officials or employees at WSP defendants in this case. This
15 Court is therefore without jurisdiction over WSP and its officials and employees and may not order
16 any relief, provisional or otherwise, against these entities. *R.M.S. Titanic, Inc. v. Haver*, 171 F.3d
17 943, 957 (5th Cir. 1999); *U.S. v. Kirschenbaum*, 156 F.3d 784, 794 (7th Cir. 1998). Although
18 Plaintiff certainly appears convinced that WSP worked in concert with SCC staff to put him "at a
19 legal disadvantage" by transferring him to a facility where he has less access to legal materials, the
20 Court has no evidence that Plaintiff has been denied meaningful access to this Court or has been
21 unable to timely file legal pleadings, motions or other papers.

22
23 To the extent Plaintiff seeks injunctive relief against SCC and/or its officials for any claimed
24 retaliatory transfer, Plaintiff must make an appropriate showing pursuant to Fed.R. Civ. P. 65. An
25 injunction would be appropriate only if Plaintiff can demonstrate either a probability of success on

1 the merits and the possibility of irreparable injury or serious questions going to the merits and
2 balance of hardships tipping sharply in his favor. *See, e.g., Cassim v. Bowen*, 824 F.2d 791, 795
3 (9th Cir. 1987).

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5 **B. Photocopying and Envelopes**

6 Although Plaintiff complains that he has experienced delays in obtaining envelopes and
7 photocopying services from WSP staff, Plaintiff's filings in this Court demonstrate that he has been
8 offered the means to file pleadings and papers with the Court by WSP prison officials. There is no
9 evidence before the Court to the contrary.

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12 **C. Access to Courts/Federal Case Law**

13 The scope of the right of access to the courts is quite limited. *Lewis v. Casey*, 518 U.S. 343,
14 116 S. Ct. 2174 (1996); *Madrid v. Gomez*, 150 F.3d 1030, 1041 (9th Cir. 1998). The right of
15 access to the courts applies only to cases in which inmates are attacking their sentences or
16 challenging the conditions of their confinement:

17 In other words, *Bounds*, does not guarantee inmates the wherewithal to transform
18 themselves into litigating engines capable of filing everything from shareholder
19 derivative actions to slip-and-fall claims. The tools it requires to be provided are
20 those that the inmates need in order to attack their sentences, directly or collaterally,
21 and in order to challenge the conditions of their confinement. Impairment of any
22 other litigating capacity is simply one of the incidental (and perfectly constitutional)
23 consequences of conviction and incarceration.

24 *Lewis v. Casey, supra*, 518 U.S. at 355, 116 S. Ct. at 2182; and *see Cornett v. Donovan*, 51 F.3d
25 894, 899 (9th Cir. 1995) ("the right of access is designed to ensure that a habeas petition or civil
26 rights complaint of a person in state custody will reach a court for consideration".)

As an Intensive Managements Unit (IMU) inmate, Plaintiff has forfeited his opportunity to

1 attend the prison's general law library. (Dkt. # 71, Exh. A). IMU inmates have access to a range
2 of legal research materials as set forth on the list submitted by Defendants in their response to
3 Plaintiff's motion. (*Id.*, Exh. A, Attach. 1). Plaintiff is aware of these materials as he submitted
4 this list of legal materials to this Court in his habeas corpus action. (C06-00459TSZ, Dkt. # 68).
5 Plaintiff has provided the Court with no evidence of any actual injury suffered or any time where he
6 has been denied access to this Court.
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8 **D. Access to Plaintiff's Files**

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10 Counsel for Defendants has been advised by WSP officials that Plaintiff will be provided
11 an opportunity to possess his legal files for this case consistent with prison policy that allows
12 inmates to possess only one box of legal materials in their cells. (Dkt. # 71, Exh. A). This Court
13 previously granted Plaintiff four extensions of time to respond to the pending motion for summary
14 judgment largely because of the prison policy that allows inmates to have only one box of legal
15 materials in their cells at any given time. Plaintiff has provided no new evidence to indicate that he
16 should not be able to work within the prison policy and latest extension granted.
17

18 **II. CONCLUSION**

19 The Court finds that Plaintiff has been provided access to adequate legal materials and with
20 sufficient extensions of time within which to be able to draft his response to Defendants' pending
21 motion for summary judgment.
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24 **ACCORDINGLY, it is ORDERED:**

25 (1) Plaintiff's Motion for Help (Dkt. # 70) is **DENIED**;

26 ORDER - 4

1 (2) Plaintiff's Motion to Enlarge Time to Reply to Defendants' Response (Dkt. # 76) is
2 **GRANTED;**

3 (3) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.
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5 DATED this 20th day of April, 2007.
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9 Karen L. Strombom
10 United States Magistrate Judge
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